

REMARKS

Applicants thank the Examiner for the thorough consideration given the present application. Claims 1-4, 6-12, 14-20 and 22-24 are currently being prosecuted. The Examiner is respectfully requested to reconsider his rejections in view of the Amendments and Remarks as set forth hereinbelow.

REJECTIONS UNDER 35 USC 102 and 103

Claims 1-6 and 9-14 stand rejected under 35 USC 102 as being anticipated by Hosono et al, JP 10-35564A. Claims 7, 8, 15 and 16 stand rejected under 35 USC 103 as being unpatentable over Hosono et al, JP 10-35564A in view of Hosono et al, JP 11278342A. Claims 17-22 stand rejected under 35 USC 103 as being unpatentable over Hosono et al, JP 10-35564A in view of Tschaeschke, US 6,000,715. Claims 23 and 24 stand rejected under 35 USC 103 as being unpatentable over Hosono et al, JP 10-35564A in view of Tschaeschke, US 6,000,715 and further in view of Hosono et al, JP 11278342A. These rejections are respectfully traversed.

At the outset, claim 1 has been amended to set forth a combination of elements wherein the pair of restraining belts have a proximal portion fixedly linked to said air bag and distal ends operatively connected to a vehicle body on the right and left sides of the motorcycle. The distal ends are operatively connected to the vehicle body behind a rear

portion of the seat, wherein the air bag and the vehicle body to the rear of said seat are linked via the pair of restraining belts.

In addition, claim 9 has been amended to include a combination of elements wherein the restraining belt has a central portion fixedly linked to the air bag and distal ends operatively connected to a vehicle body on the right and left sides of the motorcycle. The distal ends are operatively connected to the vehicle body behind a rear portion of the seat, wherein the air bag and the vehicle body to the rear of said seat are linked via the pair of restraining belt.

In view of the amendments to the claims, it is respectfully submitted that claims 1-6 and 9-14 are not anticipated by the prior art cited by the Examiner. As set forth in Section 2131 of the MPEP Original Eight Edition, August 2001 Latest Revision February, 2003, page 2100-70:

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. V. Union Oil Co. Of California*, 814 F2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).... “The identical invention must be shown in as complete detail as is contained in the ... claims.” *Richardson v. Suzuki Motor Co.*, 868 F2d 1226, 1236, 9 USQP2d 1913, 1920 (Fed. Cir. 1989).

The Hosono et al patent ‘564 includes bag anchoring bodies 18 that are connected to the fuel tank 4 in front of the operator. The bag anchoring bodies 18 are housed within the grooves 22, 22.

It is respectfully submitted that the prior art cited by the Examiner does not set forth each and every element as defined in the claims. Thus, the Examiner's rejection based on 35 USC 102 has been obviated.

With regard to the Examiner's rejection of claims 7, 8, 15 and 16, the Examiner concedes that the Hosono et al '564 patent does not disclose a shock detecting sensor. The Hosono et al '342 was relied on for a teaching of a shock detecting sensor. It is respectfully submitted that Hosono et al '342 patent merely discloses a shock detecting sensor and does not overcome the deficiencies of the primary reference as mentioned above. The Examiner's rejection based on 35 USC 103 has been obviated.

With regard to the Examiner's rejection of claims 17-22, the Examiner concedes that the Hosono et al '564 patent does not disclose a restraining net. The Tschaeschke patent was relied on for a teaching of a restraining net. It is respectfully submitted that Tschaeschke patent is directed to a head protecting curtain for use in an automobile. One of ordinary skill in this art would not be directed to this area of endeavor to modify the Hosono et al '564 patent unless he/she first reviewed the disclosure of the present invention. It is respectfully submitted that the Examiner's rejection is improper. In addition, the Tschaeschke patent merely discloses a net and does not overcome the deficiencies of the primary reference as mentioned above. Thus, the Examiner's rejection based on 35 USC 103 has been obviated.

With regard to the Examiner's rejection of claims 23 and 24, the Examiner concedes that the Hosono et al '564 patent does not disclose shock detecting sensor nor does the patent disclose a restraining net. The Hosono et al '342 patent and the Tschaeschke patent were

relied on for supplying the missing teachings. Again, as set forth above, it is respectfully submitted that one of ordinary skill in this art would not be directed to modify the Hosono et al '564 patent as proposed by the Examiner unless he/she first reviewed the disclosure of the present invention. It is respectfully submitted that the Examiner's rejection is improper. The Tschaeschke and Hosono et al '564 patents do not overcome the deficiencies of the primary reference as mentioned above. Thus, the Examiner's rejection based on 35 USC 103 has been obviated.

NO PROSECUTION HISTORY ESTOPPEL

Claims 1, 3, 9, 11, 17 and 19 have been amended to clarify the claim language. No prosecution history estoppel would apply to the interpretation of the limitations set forth in claims 1-4, 6-12, 14-20 and 22-24 in view of the fact that this subject matter has been continuously presented since the original filing date of the present application.

REQUEST FOR INTERVIEW

If the Examiner has any questions with regard to this application, he/she is respectfully requested to contact the undersigned so that an interview can be arranged in connection with this application.

CONCLUSION

In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination.

Since the remaining patents cited by the Examiner have not been utilized to reject the claims, but to merely show the state of the art, no comment need be made with respect thereto.

In view of the above amendments and remarks, reconsideration of the rejections and allowance of all of the claims are respectfully requested.

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (703) 205-8000 in the Washington, D.C. area.

A prompt and favorable consideration of this Amendment is respectfully requested.

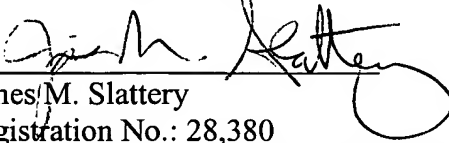
If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for

any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

A prompt and favorable consideration of this Amendment is respectfully requested.

Dated: August 9, 2005

Respectfully submitted,

By 
James M. Slattery

Registration No.: 28,380
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Rd
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant

JMS/bsh